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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BUCHANAN, CHRISTOPHER R

ART UNIT PAPER NUMBER

3627

DATE MAILED: 12/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,383

Applicant(s)

CAN ET AL.

Examiner

Christopher R Buchanan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-8,12,35-37 and 43-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8,12,35-37 and 43-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman et al. alone.

With regard to claim 1, Issacman discloses a system (abstract, Fig. 2) for determining inventory that includes a fixture adapted to hold a first collection of merchandise (see Fig. 2, col. 5 line 31+, col. 6 line 50+), the merchandise having at least one item with an associated RFID tag (10, Tag a, Fig. 2), and a reader (8, col. 2 line 10) disposed on the fixture proximate the merchandise that can interrogate the RFID tag and receive information related to the tag (col. 3 line 47+, col. 5 line 1+). The fixture can hold a second collection of merchandise (see Fig. 2) and a reader (8, col. 2 line 10) disposed on the fixture proximate the merchandise that can interrogate the RFID tag and receive information related to the tag, wherein, each reader is adapted to read only its associated collection of merchandise (col. 3 line 46+, col. 7 line 55+, see Fig. 2). A particular tag responds to a reader only when it receives a signal with its particular identification number, thus the system can associate data from a given receiver to a certain collection of merchandise (col. 3 line 64+). It would be obvious to

one skilled in the art to arrange the tags and readers so that the location of items could be pinpointed, for example, no overlapping of readers (see col. 7 line 55+). With regard to claim 2, the first collection includes a second item with an associated RFID tag (Tag b). With regard to claims 6 and 7, the system can sense items quickly (near real time) and can determine the location of the item, and, thus whether it is properly located in the fixture (abstract).

3. Claims 8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman et al. alone.

With regard to claim 8, Issacman discloses a method for determining inventory that includes associating a first RFID tag (10, Tag a, Fig. 2) with a first item of merchandise (abstract), placing the first item proximate a first location on a fixture (see Fig. 2, col. 5 line 31+, col. 6 line 50+), placing a reader (8, col. 2 line 10) on the fixture proximate the first location, and interrogating the RFID tag with the reader (col. 3 line 47+, col. 5 line 1+). A second item with an associated RFID tag (Tag b) can be placed proximate the first location (see Fig. 2) and a third item with an associated RFID tag (Tag m) can be placed proximate a second location (see Fig. 2). A particular tag responds to a reader only when it receives a signal with its particular identification number, thus the system can associate data from a given receiver to a certain collection of merchandise (col. 3 line 64+). It would be obvious to one skilled in the art to arrange the tags and readers so that the location of items could be pinpointed, for example, no overlapping of readers (see col. 7 line 55+). With regard to claim 12, each reader is

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adapted to read only the merchandise in its associated location (col. 3 line 46+, see Fig. 2).

4. Claims 35-37 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Issacman et al. alone.

Issacman discloses a method (abstract, Fig. 2) for using RFID to manage stock items that includes associating an RFID tag (10, Tag a, Fig. 2) with each item to be tracked (abstract), placing a plurality of tag readers (8, col. 2 line 10) at various locations (col. 3 line 47+, col. 5 line 1+), and scanning the tagged items to receive various information (col. 3 line 47+, col. 5 line 1+). It would be obvious to one skilled in the art that this system could be applied to a retail operation, that the RFID tag could contain a variety of information (manufacturer information, product ID, etc.) and could be interrogated at any point in a supply chain (warehouse, delivery, fitting room, checkout, return, etc.) so that analysis could be performed to provide statistics on a variety of quantities, including sales, returned items, losses during delivery, correlations between fitting room and sales, and so forth, and that under certain conditions (available stock items not on display, for example) an alert could be provided. Furthermore, it is common practice to use such information to modify items and to arrange items in a retail operation to increase sales.

Response to Arguments

5. Applicant's arguments filed October 8, 2003 have been fully considered but they are not persuasive. Applicant argues the Issacman reference suggests that local transceivers could be arranged with overlapping reading ranges, which would prevent the system from pinpointing an item that is read by multiple transceivers. However, Issacman merely states (col. 7 line 55+) that host cells may overlap one another, which does not suggest that local transceivers would be placed so as to have overlapping reading ranges. It would be obvious to one skilled in the art to arrange the tags and transceivers so that the location of items could be pinpointed, for example, no overlapping of transceivers.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Buchanan whose telephone number is 703-306-5782. The examiner can normally be reached on M-T 9-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

CRB

Christopher Buchanan
December 1, 2003

Michael Cuff 12/3/03
MICHAEL CUFF
PRIMARY EXAMINER

~~MICHAEL CUFF~~
~~PRIMARY EXAMINER~~